

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH HARRIS, :
Petitioner, : CIVIL ACTION NO. 1:20-CV-1469
: (JUDGE MARIANI)
v. : (Magistrate Judge Carlson)
JAUREGUI, et al., :
Respondents. :

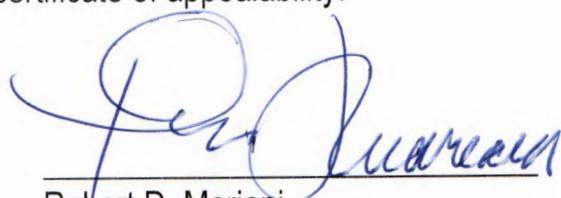
ORDER

AND NOW, THIS 21st DAY OF SEPTEMBER 2020, upon review of Magistrate Judge Martin C. Carlson's Report and Recommendation ("R&R) (Doc. 6) for clear error or manifest injustice, and review of Petitioner's request for appointment of counsel (Doc. 7 at 1) and Application to Proceed *In Forma Pauperis* (Doc. 8), **IT IS HEREBY ORDERED**
THAT:

1. The R&R (Doc. 6) is **ADOPTED** for the reasons set forth therein;
2. Based on the Court's adoption of the R&R and the Magistrate Judge's recommendation to dismiss this case without prejudice (Doc. 6 at 12), Petitioner's request for appointment of counsel (Doc. 7 at 1) is **DENIED**;¹

¹ In a document filed on September 8, 2020, Petitioner raises no objections to the Report and Recommendation but requests that the Court assign him an attorney. (Doc. 7 at 1.) District courts have "broad discretion to determine whether appointment of counsel is warranted and the determination must be made on a case-by-case basis." *Tabron v. Grace*, 6 F.3d 147, 153 (3d Cir. 1993). *Tabron* further advised that "[i]f it appears that an indigent plaintiff with a claim of arguable merit is incapable of presenting his or her case, serious consideration should be given to appointing counsel." *Id.* at 156 (citations omitted).

3. Petitioner's Application to Proceed *In Forma Pauperis* (Doc. 8) is **GRANTED** for this filing only;
4. The Clerk of Court is directed to **DISMISS** the Petition (Doc. 1) **WITHOUT PREJUDICE**;
5. There is no basis for the issuance of a certificate of appealability.



Robert D. Mariani
United States District Judge

Given the current procedural posture of this case, appointment of counsel is not warranted and further discussion of the issue is unnecessary.